

OPEN MEETING ITEM

COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



ORIGINAL

ARIZONA CORPORATION COMMISSION



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AZ CORP COMMISSION
DOCKET CONTROL

DATE: AUGUST 3, 2010

DOCKET NO.: W-01732A-05-0532

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

WILLOW VALLEY WATER COMPANY
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NOS. 68610 AND 71174)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

AUGUST 12, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

AUGUST 24, 2010 and AUGUST 25, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

AUG 3 2010

DOCKETED BY

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF
WILLOW VALLEY WATER COMPANY, INC.
FOR AN EXTENSION OF ITS CERTIFICATE
OF CONVENIENCE AND NECESSITY.

DOCKET NO. W-01732A-05-0532

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68610 AND 71174

Open Meeting
August 24 and 25, 2010
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the
Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. On March 23, 2006, the Arizona Corporation Commission ("Commission") issued
Decision No. 68610 which approved the application of Willow Valley Water Company, Inc.
("Company" or "Applicant") for an extension of its Certificate of Convenience and Necessity
("Certificate") to provide public water utility service to 48 acres of land consisting of Parcels A, B
and C in Mohave County, Arizona.

2. As a condition of the Commission's approval, the Company was required to file, by
March 23, 2007, copies of the developer's Letter(s) of Adequate Water Supply ("LAWS") which is to
be issued by the Arizona Department of Water Resources ("ADWR") for each parcel.

3. On March 21, 2007, the Company filed a Motion for Extension of Time ("Motion") to
file copies of the developer's LAWS stating that it needed an additional twelve months, until March
23, 2008, to secure and file copies of the LAWS to be issued by ADWR. The developer was

1 encountering delays due to litigation which involved the Mohave Valley Irrigation and Drainage
2 District ("MVIDD") and a 2005 recall election that involved its board of directors.

3 4. On April 4, 2007, the Commission's Utilities Division ("Staff") filed a Memorandum
4 which stated that Staff did not object to the Company's Motion and recommended that the requested
5 extension be approved.

6 5. On April 19, 2007, by Procedural Order, an extension of time was granted for the
7 Company to file copies of the developer's LAWS by March 23, 2008.

8 6. On March 21, 2008, the Company requested an additional one year extension of time,
9 until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C to be issued by
10 ADWR. The Applicant in the proceeding had secured and filed copies of the developer's LAWS for
11 Parcels A and B in the extension area.

12 7. In its March 2008 filing, the Company stated that the developer was proceeding with
13 the development of Parcel C and had experienced some delays with the Mohave County Planning and
14 Zoning Department ("MCPZD"). At that time, the developer expected to resolve those issues with
15 the MCPZD after which the developer would secure a LAWS for Parcel C and provide it to the
16 Company to file with the Commission if an extension was granted.

17 8. On April 16, 2008, Staff filed a Memorandum which recommended approval of the
18 Company's request for an extension of time, until March 23, 2009, in order to file a copy of the
19 developer's LAWS for Parcel C.

20 9. On April 29, 2008, by Procedural Order, the Company was granted an extension of
21 time, until March 23, 2009, in which to file a copy of the developer's LAWS for Parcel C.

22 10. On March 23, 2009, the developer of Parcels A, B and C, McKellips Land
23 Corporation ("MLC"), filed an Application to Intervene ("Application") in this docket. MLC
24 described what had happened since the granting of the extension of the Company's Certificate on
25 March 23, 2006, and requested intervention pursuant A.A.C. R14-3-105(A) because it alleged that it
26 was directly and substantially affected by the Commission's proceedings.

27 11. MLC, in its Application, further indicated that the Company did not oppose its
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1 Application. Additionally, together with its Application, MLC filed a Conditional Motion for
2 Extension of Time ("Conditional Motion"), until March 23, 2010, in which to secure a LAWS for
3 Parcel C and provide it to the Company for filing in compliance with the Commission's Decision No.
4 68610.

5 12. On April 7, 2009, by Procedural Order, Staff and the Company were each ordered to
6 file a response to MLC's Application and to its Conditional Motion.

7 13. On April 30, 2009, the Company filed its response to MLC's Conditional Motion and
8 indicated that the Company did not oppose MLC's request for an extension of time on behalf of the
9 Company.

10 14. On May 8, 2009, Staff filed its response to MLC's Conditional Motion. Staff stated
11 that "the downturn in the economy has put a damper on much of the development in the state," but
12 recognized that MLC and the Company "have made significant progress in the extension area" with
13 the LAWS for Parcel C remaining as the last required compliance item from Decision No. 68610, and
14 recommended approval of MLC's Conditional Motion.

15 15. Staff further recommended that no further extension of time be granted.

16 16. Neither Staff nor the Company objected to MLC's Application and therefore MLC
17 was granted intervention for the limited purpose of explaining why additional time for compliance
18 was necessary. The Commission found that the request for an extension of time was reasonable and
19 issued Decision No. 71174 (June 30, 2009) which authorized the Company to file a copy of the
20 LAWS for Parcel C as recommended by Staff by March 23, 2010; however, the Commission placed
21 the Company on notice that any further requests for an extension of time to comply would have to
22 demonstrate that extraordinary circumstances existed that would warrant an additional extension.

23 17. On March 23, 2010, MLC filed another Motion in this proceeding requesting an
24 additional year, until March 23, 2011, for the company to file a copy of the LAWS which is to be
25 issued by ADWR to the developer for Parcel C. Further, MLC indicates in its Motion that the
26 Company does not object to MLC's request and concurs in the Motion.

27 18. MLC, in its Motion, describes the difficulties it has encountered in securing the
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1 LAWS for Parcel C. The Motion describes the ongoing political and litigation problems which have
2 been affecting the MVIDD and its board. MLC also claims to have encountered further
3 complications with various Mohave County administrative departments and, as a result, MLC was
4 required to commence the subdivision process all over again "under a new ordinance." MLC asserts
5 that the preliminary plat for Parcel C was submitted and resubmitted multiple times in order to meet
6 new county requirements and additional delays were caused by the parent company of the title
7 company involved in the subdivision process going into reorganization. According to MLC, these
8 events further delayed the issuance of a deed that would enable MLC to file a parcel plat that defines
9 a retention basin which receives storm drainage from all three parcels in the extension area approved
10 in Decision No 68610.

11 19. According to MLC's Motion, the developer believes that the plat issues have been
12 resolved and the subdivision process can resume. MLC states that it "has arranged the financing to
13 complete the subdivision and has performed rough grading." MLC indicates that the preliminary plat
14 is complete and the final plat and drafts of the improvement plans have also been completed.

15 20. MLC's Motion goes on to state that the Company has adequate water to serve Parcel C
16 and that the Company is the "only feasible service provider" within the expansion area and that it is
17 already providing water service to homes within Parcels A and B.

18 21. MLC further states that it "has diligently pursued the LAWS" to be issued by ADWR
19 and that delays in the process were caused by others and not the fault of MLC or the Company.

20 22. On June 9, 2010, Staff filed its response which indicates that Staff has no objections to
21 the most recent request by MLC for an extension of time for the Company to have until March 23,
22 2011, to file a copy of the developer's LAWS for Parcel C. Staff states that it recognizes MLC is
23 moving forward with the development of Parcel C and the only remaining compliance item from
24 Decision No. 68610 is for the Company to file a copy of the LAWS for the subject parcel. Therefore,
25 Staff is not opposing the pending Motion, but is recommending that no further extensions be granted.

26 23. Under the circumstances, based upon MLC's ongoing development efforts for Parcel
27 C, we believe that an extension of time until March 23, 2011, for the Company to file a copy of the
28 developer's LAWS for Parcel C is reasonable and should be granted.

CONCLUSIONS OF LAW

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2 1. The Company is a public service corporation within the meaning of Article XV of the
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over the Company and the subject matter of the
5 extension request addressed herein.

6 3. MLC has previously been granted intervenor status pursuant to A.A.C. R14-3-105 for
7 the purpose of filing for an extension of time on behalf of the Company.

8 4. The Motion requesting an extension of time for the Company to file a copy of the
9 required documentation without objection by Staff as set forth in Findings of Fact No. 22 should be
10 approved, but absent extraordinary circumstances, no further extensions should be granted.

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ORDER

IT IS THEREFORE ORDERED that Willow Valley Water Company, Inc. shall be granted an extension of time, until March 23, 2011, to file a copy of the developer's Letter of Assured Water Supply for Parcel C to be issued by Arizona Department of Water Resources as previously ordered in Decision Nos. 68610 and 71174.

IT IS FURTHER ORDERED that no further extension of time to file the aforementioned document shall be granted absent extraordinary circumstances.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

MES:db

1 SERVICE LIST FOR: WILLOW VALLEY WATER COMPANY

2 DOCKET NO.: W-01732A-05-0532

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